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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/714,251	11/16/2000	Margaret Gardner MacPhail	AUS9-2000-0470-US1	4095

7590 12/17/2003  
Joseph R Van Leeuwen  
PO Box 81641  
Austin, TX 78708-1641

EXAMINER

HOANG, PHUONG N

ART UNIT	PAPER NUMBER
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2126

DATE MAILED: 12/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/714,251

Applicant(s)

MACPHAIL, MARGARET  
GARDNER

Examiner

Phuong N. Hoang

Art Unit

2126

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 - 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Double Patenting*

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1 - 20 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 - 20 of copending Application No. 09,714,252 because the claims of the application 09,714,252 are about the receiving the system network events, creating a data capture object adapted to capture the data, searching for action diary, and storing action diaries, while the independent claims of the application 09/714,251 are about capturing the actions by the operators, editing one or more actions, searching for the action diary, and storing the captured data. It would have been obvious to have operators to capture and process the events or actions because it is necessary to control and maintain the systems.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1 – 20 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 - 20 of copending Application No. 09,714,250 because the claims of the application 09,714,250 are about the action of receiving system events, searching for action diary, and creating storage for storing action diaries, while the claims of the application 09/714,251 are about capturing the actions by the operators, receiving one or more actions, searching for the action diary, and storing the captured data. It would have been obvious to create a storage for storing action diaries because it maintains data and data integrity.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

**Claims 1 – 3, 6 – 10, 13 – 17, 19 - 20 are rejected under 35 U.S.C. 102(e) as being unpatentable by Douik, US patent no. 6,012,152.**

**As to claim 1, Douik teaches a method for coordinating efforts of a plurality of system operators, said method comprising:**

capturing one or more first actions taken by a first operator in an action diary  
(correlation agents, col. 15 lines 15 – 25);

receiving the first actions by a second operator using the action diary (diagnosis  
agents, col. 28 lines 20 – 65).

**As to claim 2, 3, 6,** Douik teaches the method as described in claim 1 further  
comprising:

combining one or more second actions or comments taken by the second  
operator with the first actions (the output of the verification process is a diagnosis 29,  
col. 15 lines 32 – 40);

editing the stored actions, the editing resulting in a best current practice (the  
output of the verification process is a diagnosis 29 ..... corrected, col. 15 lines 35 - 40);

storing the combined actions or comments in the action diary (repair knowledge  
stored in the model, col. 24, lines 25 – 45).

**As to claim 7,** Douik teaches the method as described in claim 1 further  
comprising:

receiving data regarding a system event (when polling indicates that a potential  
fault may occur, col. 13 lines 35 – 67);

searching a data store for the action diary, wherein the action diary corresponds  
to the received system event (matching similar trouble report to known faults, col. 14  
lines 1 – 16).

**As to claim 8,** this is the system claim of claim 1. See claim 1 for rejection  
accept for a tool. Douik also teaches a tool (diagnostic agent 28, col. 15).

**As to claims 9, 10, 13, see claims 2, 3, 6 above.**

**As to claim 14, see claim 7 above.**

**As to claim 15, this is the product claim of claim 1. See claim for rejection.**

**As to claim 16, 17, 19, see claims 2, 3, 6 above.**

**As to claim 20, see claim 7 above.**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 4, 5, 11, 12, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Douik, US patent no. 6,012,152 in view of Murakami, US patent no. 6,370,563.**

**As to claim 4, 11, 18, Douik does not teach the method as described in claim 1 further comprising: invoking a chat window on a first computer operated by the first operator and on a second computer operated by the second operator, wherein the chat window includes displaying interactive information between the first and second operators. However, Douik teaches the operator interact with each other using GUI (col. 28 lines 1 – 18).**

Murakami teaches invoking a chat window on a first computer operated by the first operator and on a second computer operated by the second operator (chat system for exchanging information between terminal devices .... Operators who operate the individual terminal devices are realized, col. 1 lines 11 – 21), wherein the chat window includes displaying interactive information between the first and second operators (in the chat system, the statement and the corresponding speaker's name are displayed in the terminal devices 3 to 6, col. 1 lines 23 – 30).

It would have been obvious to apply the teaching of Murakami to Douik's system to make the GUI to provide chat window because it provides interactive information between operators.

As to claim 5, 12, Douik teaches the method as described in claim 4 wherein the invoking automatically occurs when the first and second operators access the action diary (the correlation agent 26 and diagnosis agent 28 are themselves coordinating, col. 15 lines 55 – 60).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong N. Hoang whose telephone number is (703) 605-4239. The examiner can normally be reached on Monday - Friday 9:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (703)305-8498. The fax phone

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number for the organization where this application or proceeding is assigned is  
(703)746-7239.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)746-7140.

Ph

December 8, 2003



**JOHN FOLLANSBEE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100**